

Senate Bill No. 1851

Passed the Senate May 25, 2006

Secretary of the Senate

Passed the Assembly August 17, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 109275, 109277, and 109280 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1851, Committee on Health. Cancer: informed consent.

Existing law requires physicians and surgeons to inform patients being treated for breast cancer about alternative efficacious treatments. Violation of these requirements constitutes unprofessional conduct and is a crime. Existing law requires the State Department of Health Services to develop a summary of alternative efficacious methods of treatment for breast cancer and requires the Medical Board of California to provide the summary to physicians and surgeons.

Existing law requires every health facility, clinic, and physician and surgeon's office to post a prescribed notice where outpatient breast cancer screening or biopsy is performed, informing patients that the physician and surgeon has a duty to provide a copy of the department's summary to the patient prior to performance of a biopsy. Existing law further requires the physician and surgeon to note on the patient's written record that the summary was so provided.

This bill would, instead, require the physician and surgeon, upon a diagnosis of breast cancer, to provide the summary. It would permit the physician to choose to provide the summary prior to performance of a screening or biopsy and would require conforming changes to the notice. The bill would require the department and the Medical Board of California to each post the summary on its Internet Web site.

Existing law requires the department to approve a standardized written summary containing specified information about prostate cancer treatment options, and requires the Medical Board of California to provide the summary to physicians and surgeons.

This bill would require the department and the Medical Board of California to each post the summary on its Internet Web site for public use.

The people of the State of California do enact as follows:

SECTION 1. Section 109275 of the Health and Safety Code is amended to read:

109275. (a) Upon a diagnosis of breast cancer, the physician and surgeon, meaning the primary provider who initially referred the patient for the screening or biopsy or, if different, the provider who has made the diagnosis of breast cancer and initially consulted with the patient about treatment, shall give the patient the written summary described in subdivision (c) and required by this section and shall note on the patient's chart that he or she has given the patient the written summary. The physician and surgeon may choose to provide the summary prior to the performance of a screening or biopsy for breast cancer upon a patient's request or at the discretion of the physician and surgeon in appropriate cases, including, but not limited to, instances when a patient has demonstrated risk factors, has a family history of breast cancer, or is otherwise susceptible.

(b) The failure of a physician and surgeon to inform a patient, by means of a standardized written summary developed by the department on the recommendation of the Cancer Advisory Council in accordance with subdivision (c), in layperson's language and in a language understood by the patient, of alternative efficacious methods of treatment that may be medically viable, including surgical, radiological, or chemotherapeutic treatments or combinations thereof, when the patient is being treated for any form of breast cancer, constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(c) (1) A standardized written summary in layperson's language and in a language understood by the patient shall be developed by the department with the recommendations of the Cancer Advisory Council, and shall be printed and made available by the Medical Board of California to physicians and surgeons, for the purposes of informing the patient of the advantages, disadvantages, risks, and descriptions of the procedures with regard to medically viable and efficacious alternative methods of treatment for breast cancer as required by subdivision (a).

(2) Commencing no later than January 1, 1995, and every three years thereafter, the department shall review the written summary and shall revise the written summary if the department determines that new or revised information should be included in the written summary, and shall provide a copy of the revised summary to the Medical Board of California.

(3) At the next revision of the standardized written summary required by this section, the department shall incorporate all of the following additional information:

(A) Information regarding methods of treatment for breast cancer that are in the investigational or clinical trial stage and are recognized for treatment by the Physician's Data Query of the National Cancer Institute.

(B) Available reference numbers, including, but not limited to, the "800" telephone numbers for the National Cancer Institute and the American Cancer Society, in order for breast cancer patients to obtain the most recent information.

(C) A discussion of breast reconstruction surgery, including, but not limited to, problems, benefits, and alternatives.

(D) Statistics on the incidence of breast cancer.

(d) The Medical Board of California shall establish a distribution system for the breast cancer treatment alternatives written summary, and shall provide a link to its Internet Web site that may be accessed by consumers interested in viewing and obtaining a copy of the summary.

(e) The department and the Medical Board of California shall each post the summary on its Internet Web site.

SEC. 2. Section 109277 of the Health and Safety Code is amended to read:

109277. (a) Every person or entity who owns or operates a health facility or a clinic, or who is licensed as a physician and surgeon and rents or owns the premises where his or her practice is located, shall cause a sign or notice to be posted where a physician and surgeon performs breast cancer screening or biopsy as an outpatient service, or in a reasonably proximate area to where breast cancer screening or biopsy is performed. A sign or notice posted at the patient registration area of the health facility, clinic, or physician and surgeon's office shall constitute compliance with this section.

(b) The sign or notice shall read as follows:

“BE INFORMED”

“Upon a diagnosis of breast cancer, your physician and surgeon is required to provide you a written summary of alternative efficacious methods of treatment, pursuant to Section 109275 of the California Health and Safety Code. Your physician and surgeon may choose to provide the summary prior to the performance of a screening or biopsy for breast cancer at your request or at the physician and surgeon’s discretion, when appropriate.”

“The information about methods of treatment was developed by the State Department of Health Services to inform patients of the advantages, disadvantages, risks, and descriptions of procedures.”

(c) The sign shall be not less than eight and one-half inches by 11 inches and shall be conspicuously displayed so as to be readable. The words “BE INFORMED” shall not be less than one-half inch in height and shall be centered on a single line with no other text. The message on the sign shall appear in English, Spanish, and Chinese.

SEC. 3. Section 109280 of the Health and Safety Code is amended to read:

109280. (a) A standardized written summary in layperson’s language and in a language understood by patients shall be approved by the department. The department may approve the use of an existing publication from a recognized cancer authority as the written summary. Commencing on January 1, 2003, and every three years thereafter, the department shall review its approval of the use of an existing publication from a recognized cancer authority as the written summary to ensure that the approved written summary comprises timely, new, and revised information regarding prostate cancer treatment options as the department determines is necessary. The written summary shall be printed or made available by the Medical Board of California to physicians and surgeons, concerning the advantages, disadvantages, risks, and descriptions, of procedures with regard to medically viable and efficacious alternative methods of

treatment of prostate cancer. Physicians and surgeons are urged to make the summary available to patients when appropriate.

(b) The department and the Medical Board of California shall each post this summary on its Internet Web site for public use.

(c) If the department updates this summary, it shall send the updated summary to the Medical Board of California and both the department and the Medical Board of California shall each post this updated summary on its Internet Web site.

Approved _____, 2006

Governor